REMARKS

Claims 1-22 are pending. Claims 1-5, 6-9 and 10-22 were rejected under 35 U.S.C.

§ 103(a) as unpatentable over U.S. Patent No. 5,625,882 to Vook et al. (hereinafter "Vook") in

view of U.S. Patent No. 5,640,176 to Mundt et at. (hereinafter "Mundt") and further in view of

U.S. Patent No. 5,603,038 to Crump et al. (hereinafter "Crump"). Claim 1 is amended to more

particularly set forth and describe the invention. Applicants respectfully submit that the claims

are patentable over the art of record for the reasons articulated below.

Applicants Traverse Claim Rejections Under 35 U.S.C. § 103

Claims 1-5 and 10-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over

Vook in view of Mundt (hereinafter "the combined references.") Applicants respectfully traverse

the rejection under 35 U.S.C. § 103.

A prima facie case of obviousness based on a combination of references requires a "clear

and particular" showing of a teaching or motivation to combine the references. *Winner*

International Royalty Corp. v. Wang, 53 USPQ2d 1580, 1587 (Fed. Cir. 2000).

Regarding claims 1 and 10, the Office action claims that Vook discloses "a power

management technique for use on a mobile device having a first set of data including a sleep

time and a wake time; a second set of data including other times; and an application configured

to put the mobile device in a low power consumption state, and to bring the mobile device out of

the low power consumption state substantially near the sleep time, and to bring the mobile device

out of the low power consumption state at substantially the earlier of the wake time or one of the

other times." The Applicants respectfully disagree. Vook instead teaches that the arrival time

of a synchronization signal is calculated to allow a mobile device to monitor the synchronization

signal. (col. 2, lines 18-24). The synchronization signal is modulated on an RF carrier and

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broadcast to all devices in a Service Access Point's (AP) zone of coverage. (col. 3, lines 34-36). Vook does not teach a second set of data including other times at which an application may bring the device out of a low power consumption state. Nothing in the combined references teaches or suggests "a second set of data including other times" as recited by independent claim 1.

The Office Action further states that Vook does not disclose "a timer configured to generate a wake event upon expiration of a countdown time." The Office Action cites Mundt as teaching that feature. Applicants respectfully disagree. Mundt teaches that a "time display is used to provide the estimated time remaining until the battery is depleted" (col. 6, line 50). Applicants admit that Mundt discloses the use of a time display (Mundt at fig. 4, element 62). However, the time display of Mundt has a passive visual display function, and therefore is not related to the active function of a timer configured to generate an event of any sort. Mundt does not suggest or teach application of the time display for any other purpose than the display of an estimated remaining battery capacity. The invention of Mundt provides a visual representation of remaining battery capacity, which solves a different problem than the invention of the Applicants. Furthermore, Mundt does not teach that the time display (fig. 4, element 62) operates while a device is turned off or in sleep mode. A timer according to the invention of the Applicants is operable while a mobile device is in a sleep mode in order to generate a wake event, which Mundt does not disclose or teach. Mundt, therefore, does not disclose "a timer configured to generate a wake event upon expiration of a countdown time" as recited by independent claim 1. Neither the individual nor the combined references of Vook and Mundt teach or suggest "a timer configured to generate a wake event upon expiration of a countdown time; a first set of data including a sleep time and a wake time" and "a second set of data including other times" as recited by independent claim 1 of the present invention.

Furthermore, the combined references do not disclose or suggest "comparing the sleep time to each user defined time to determine an earliest occurring time" and "setting a timer to trigger a wake event at the earliest occurring time" as recited by independent claim 10 of the present invention. Vook teaches that each device and AP maintains an event "schedule." The event "schedule" determines which of the synchronization signal transmissions a device is required to monitor. (col. 6, lines 4-14) Nowhere does Vook teach a comparison of user defined times to any other time for the purpose of setting a wake timer. According to Vook, an event "schedule" establishes when a device should be able to receive periodic synchronizing transmissions, which is an automated function not implemented by a user. For each of the above reasons, the Applicants respectfully submit that the rejection of Claims 1 and 10 under 35 U.S.C. § 103(a) was improper, and therefore request withdrawal of the rejection.

Additionally, notwithstanding the above arguments, nothing in the combined references demonstrates a clear and particular showing of a motivation to combine the references. The Office Action attempts to reach the claimed subject matter by combining these references, but does so without any teaching, suggestion, or motivation to do so other than Applicants' own teachings, which is clearly impermissible by law. See, e.g., In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992); In re Geiger, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987).

As set forth above, Vook is directed to a method of calculating the arrival time of a synchronizing signal broadcast to all devices within a certain zone of coverage. Mundt is directed to a user interface for the display of the estimated time remaining until the battery is depleted. The Applicants reiterate that the cited combination does not teach each limitation of the claimed invention, and moreover, submit that the Office Action identifies no teaching,

suggestion or motivation to combine the references outside of the general contention that the cited combination would achieve the subject matter recited in the claims. For example, the Office Action fails to point out how the references could be combined to teach the Applicants' invention. Instead, it appears that the Examiner located a first reference relating to mobile communication devices and a second reference relating to user interfaces in an attempt to reconstruct the Applicants' claimed invention based on the Applicants' own teachings.

The Office Action contends that the combination would be obvious so that a timer could be configured to expire after a certain amount of time. However, that contention simply restates Applicants' claimed solution to the problem identified by Applicants, and is based on nothing found in the cited references. Rather, the rationale provided in the Office Action is clearly directed by the Applicants' own teachings. Such a hindsight reconstruction is impermissible by law, and for at least this additional reason, claims 1 and 10 are submitted as patentable over the art of record.

Regarding claim 2, the Office Action recites that Vook does not teach that an application is configured to not bring the mobile device out of the low power consumption state if the mobile device has been shut off by a switch. The Applicants agree. The Office Action further claims that one of ordinary skill in the art would have found it obvious to provide the claimed limitation. Applicants respectfully disagree. The Examiner is pointed to the following language of the claim limitation: wherein the application is further configured to not bring the device out of the low power consumption state if the mobile device has been shut off by the switch. Explicit in the limitation is the word "configured," which indicates a modification of the application. Applicants respectfully submit that configuring the application not to bring the mobile device out of the low power consumption state implies that multiple system conditions are possible and

specifically accounted for by the limitation. Additionally, without a teaching or suggestion from the art, it appears that the Examiner is relying on knowledge provided by Applicants and applying that teaching with hindsight to make an improper rejection. The Examiner is respectfully reminded that it is impermissible by law to make rejections based upon hindsight. The Examiner must carefully avoid the "tempting but forbidden zone of hindsight" in which "that which only the inventor taught is used against its teacher." *In re Dembiczak*, 50 USPQ2d 1614, 1616-1617 (Fed. Cir. 1999). For at least the reasons stated above, claim 2 which depends from claim 1, should not be rejected under 35 U.S.C. § 103(a) and is proposed to be allowable.

Regarding claims 3-5, and 14-22, the Office Action states that Vook does not disclose a user interface configured to receive the first set of data and the second set of data and to abort the placement of the device into or out of the low power consumption state. The Office Action cites Mundt as teaching that feature. Applicants agree that Vook does not disclose a user interface.

The combined references do not disclose or suggest a computer readable medium on a mobile computing device having computer executable instructions for "determining if a user provided command to cease bringing the mobile computing device out of the low power consumption state has been received; and if the command has not been received, issuing an instruction to the operating system to bring the mobile computing device out of the low power consumption state" as recited by claims 18 and 22 of the present invention. Therefore, the rejection is improper because every claim limitation is not taught by the references.

Furthermore, nothing in the combined references provides a motivation to combine the teachings. Absent a clear and particular showing of a motivation to combine the references, a rejection under 35 U.S.C. § 103(a) is improper. For each of the above reasons, Applicants

respectfully submit that the rejection of Claims 3-5 and 14-22 under 35 U.S.C. §103(a) was improper, and therefore request withdrawal of the rejection.

Regarding claims 11-13, the Office Action indicates that Mundt discloses delaying of putting the device into the low power consumption state comprises adding a predetermined time to the sleep time or aborting of putting the device into the low power consumption state. Applicants respectfully disagree. Mundt teaches a method to configure various levels of power conservation using a menu layout. (col. 7, line 22). According to Mundt, a user sets the actual delay time values for each of the particular devices and circuitry. (col. 7, lines 20-21). Mundt teaches an improved user interface for a utility that shuts off components of the device according to predetermined length of time selected from a menu. However, inspection of the portions of Mundt cited by the Office Action does not yield any teaching of delaying or aborting of putting the device in a low power consumption state, or adding a predetermined time to delay placement of the device into a low power consumption state. For at least the above reasons, the rejection of claims 11-13 under 35 U.S.C. § 103(a) was improper. Accordingly, the Applicants respectfully request withdrawal of the rejection.

Claims 6-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vook and Mundt in further view of Crump (hereinafter, the combined references). Applicants agree that Vook does not explicitly disclose a predetermined event schedule. The Office Action cites Crump as teaching that feature. Careful review of the cited portion of Crump (col. 15, lines 50-63) does not reflect any teaching or even reference to a predetermined event such as an appointment time, a meeting time, or a task expiration time. According to Crump, a BIOS scheduler can be used to cause the execution of the tape backup drive. (col. 15, lines 62-63). It is not clear how an automated function provided by BIOS can be related to the present invention.

Additionally, it appears that the cited portion of Crump is referring to a "scheduler" that is part of a separate subsystem with the express function of performing system maintenance on a periodic basis. A "schedule" of such events would not contain an appointment time, a meeting time or a task expiration time, since those events do not apply to hardware maintenance functions such as performing a tape back up. Furthermore, there is no teaching or motivation to combine the references cited in the Office Action. For at least the above reasons, the rejection of claims 6-9 under 35 U.S.C. § 103(a) was improper. Accordingly, Applicants respectfully request withdrawal of the rejection.

Finally, notwithstanding the above arguments, nothing in the combined references demonstrates a clear and particular showing of a motivation to combine the references. The Office Action attempts to reach the claimed subject matter by combining these references, but does so without any teaching, suggestion, or motivation to do so other than Applicants' own teachings, which, as discussed above, is impermissible by law.

Applicants reiterate that the cited combination does not teach each limitation of the claimed invention, and moreover, submit that the Office Action identifies no teaching, suggestion or motivation to combine the references outside of the general contention that the cited combination would achieve the subject matter recited in the claims. For example, the Office Action fails to point out how the references could be combined to reach Applicants' invention. Instead, it appears that the Examiner located yet a third reference relating to scheduling to combine with the first two references as discussed above, in an attempt to reconstruct the Applicants' claimed invention based on the Applicants' own teachings.

The Office action contends that the combination would be obvious "in order to put the device into or out of the low power conservation state." However, that contention simply
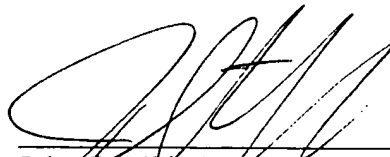
restates Applicants' claimed solution identified in the Applicants' application, and is based on nothing found in the cited references. Rather, the rationale provided in the Office Action is clearly directed by Applicants' own teachings. Such a hindsight reconstruction is impermissible by law, and for at least this additional reason, claims 6-9, which depend from claim 1, are submitted as patentable over the art of record.

CONCLUSION

Applicants respectfully request favorable consideration for the allowance of claims 1-22. It is respectfully submitted that all claims in this case are patentable and that the application is in condition for allowance. Should any further aspects of the application remain unresolved, the Examiner is invited to telephone Applicants' attorney at the number listed below. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the specification:

Paragraph beginning at line 20 of page 8 has been amended as follows:

At block **417** the soonest appointment time is assigned as the Wake Up time. The process **400** then advances to block **419**. At block **419** the process **400** displays a shutdown ("countdown") timer on the user interface. The process [4000] **400** may implement this display utilizing the Auto On/Auto Off program **203** in conjunction with the U.I. program **209**. For example, the user interface may display a predetermined numerical countdown prior to the mobile device going into the low power mode. The process **400** then advances to block **421**.

In the claims:

Claim 1 has been amended as follows:

1.   (Amended) A system for managing power consumption on a mobile device having <u>an operating system, a user interface, and</u> a switch, the system comprising:

a timer configured to generate a wake event upon the expiration of a countdown time;

a first set of data including a sleep time and a wake time;

a second set of data including other times;

<u>an appointment register configured to store and retrieve time data including the second set of data</u>; and,

an application configured to put the mobile device in a low power consumption state substantially near the sleep time, and to bring the mobile device out of the low power consumption state at substantially the earlier of the wake time or one of the other times.